



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,820	03/28/2006	Sharon Ehrlich	EHRlich2	9368
1444 7590 08/19/2008 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303				
EXAMINER				
NAQI, SHARICK				
ART UNIT		PAPER NUMBER		
3736				
MAIL DATE		DELIVERY MODE		
08/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/573,820

Applicant(s)

EHRlich ET AL.

Examiner

Sharick Naqi

Art Unit

3736

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 51-91 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 9/29/2006
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 51-70 and 89-90. are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Step (a) of claim 51 states "exposing an individual to one or more stimuli within at least one exposure timeframe while said timeframe is contemporary with individual's fulfillment of at least one stated assignment and said stimulus does not require an active direct reaction from the individual and is intended to cause a psycho- physiological reaction" and step (b) of claim 51 states "registration of individual's psycho-physiological characteristics giving rise to registered parameters." It is unclear to the Examiner whether the "registration of the individual's psycho-physiological characteristics" corresponds to only the "psycho-physiological reaction" when exposing the individual to the stimulus or the entire period when the individual is fulfilling the stated assignment, as mentioned in step (a). Thus the Examiner is unable to determine the scope of the claim and this renders the claim indefinite.

Claims 89-90 are also unclear and rejected for substantially the same reasons as claim 71. Claims 52-70 are rejected based on their dependence on claim 51.

Claim 71-88 and 91 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Step (e) of claim 71 states "providing an indication of hidden intent in case of predefined discrepancy." It is unclear to the Examiner between what elements or things does a "predefined discrepancy" result in an indication of hidden intent. There are two steps (c) and (d) in claim 71 where two different sets of parameters are compared, and it is not clear whether "predefined discrepancy" in just one particular step, either step or both steps results in an indication of hidden intent. Thus the Examiner is unable to determine the scope of the claim and this renders the claim indefinite.

Claim 91 is also unclear and rejected for substantially the same reasons as claim 71. Claims 72-88 are rejected based on their dependence on claim 71.

Claim 89 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Lines 5 and 13 of claim 89 refer to "stimuli exposure block" and "measuring tools block" respectively. It is unclear what exactly is meant by a "block", does a "block" comprise hardware or is it just an algorithm or software. If the "block" is simply software then it will be given limited patentable weight in the apparatus claim because software by itself lacks structure that would be attributed to the apparatus claims.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 51-88 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In particular, claims 1-9 are drawn to a process. Under 35 U.S.C. §101 a process must 1) be tied to another statutory class (such as a particular apparatus) or 2) transform underlying subject matter (such as an article or materials) to a different state or thing. The claimed process steps do not transform underlying subject matter. Thus, to qualify as a 35 U.S.C. § 101 statutory process, the claims should positively recite the other statutory class (apparatus or thing) to which it is tied, for example by identifying the apparatus that accomplishes the method steps.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 51-91 are rejected under 35 U.S.C. 102(e) as being anticipated by DuRousseau US Patent Publication No. 2004/0143170 (provided in Applicant's IDS).

51. A method for computerized indicating individuals with hidden intent, the method comprising:

(a) exposing an individual to one or more stimuli within at least one exposure timeframe while said timeframe is contemporary with individual's fulfillment of at least one stated assignment and said stimulus does not require an active direct reaction from the individual and is intended to cause a psycho- physiological reaction (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Examinee is asked questions in a normal environment and then asked questions while being exposed to IMVR stimuli, psychometric data is collected the entire time. Questions are equivalent to one state task and IMVR stimulus does not require an active direct reaction from the individual*);

(b) registration of individual's psycho-physiological characteristics giving rise to registered parameters (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Psychometric data collection is equivalent to registration of psycho-physical characteristics*);

(c) comparing the registered parameters or derivatives thereof with a test criterion (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Baseline values and signal collected during IMVR stimuli are compared to see if user is trying to deceive*);

(d) providing indication of hidden intent in case of predefined discrepancy (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Baseline values and signal collected during IMVR stimuli are compared to see if user is trying to deceive. This is equivalent to providing indication of hidden intent*).

52. The method of Claim 51 wherein said hidden intent is malicious (*Paragraph 0034*).

53. The method of Claim 51 wherein at least one of said stimuli does not form a part of said assignment (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

54. The method of Claim 51 wherein said psycho-physiological characteristics include a behavioral reaction (*Paragraph 0003*).

55. The method of Claim 51 wherein at least one of said stimuli is a member of a group comprising stimuli of the types as open stimuli, concealed stimuli, stressing stimuli, relaxing stimuli, stimuli creating conscious reaction, stimuli creating sub-conscious reaction, targeted stimuli, general stimuli (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

56. The method of Claim 51 wherein the provision of at least one of said stimuli is fully automated (*Paragraphs 0052*).

57. The method of Claim 51 wherein at least one of said stimuli is a member of a group comprising stimuli provided via physical and virtual media (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

58. The method of Claim 51 wherein at least part of said stimuli are grouped within the exposure timeframe in at least one dedicated set (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

59. The method of Claim 58 wherein at least one set of stimuli is dedicated to individual's authentication (*Abstract, Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

60. The method according to Claim 58 wherein at least one set of stimuli is dedicated to indication of countermeasures by the individual (*Paragraphs 0018, 0047-48*).

61. The method of Claim 51 comprising random or pseudo-random selection of at least one type of said stimuli (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

62. The method of Claim 51 comprising random or pseudo-random exposure of at least one of said stimuli within the exposure timeframe (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

63. The method of Claim 51 comprising scheduled exposure of at least one of said stimuli within the exposure timeframe (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

64. The method of Claim 51 wherein said test criterion includes a test pattern; the method further comprising adapting said test pattern to the individual according to registered parameters (*Paragraphs 0022*).

65. The method of Claim 64 comprising adapting said test pattern to parameters registered before the first exposure time frame (*Paragraphs 0017-0019, 0022, 0034, 0046-0049 and 0056*).

66. The method of Claim 64 comprising adapting said test pattern to parameters registered between exposure time frames (*Paragraphs 0017-0019, 0022, 0034, 0046-0049 and 0056*).

67. The method of Claim 64 comprising adapting said test pattern to parameters registered during exposure of a dedicated set of stimuli (*Paragraphs 0017-0019, 0022, 0034, 0046-0049 and 0056*).

68. The method of Claim 51 wherein appearance and continuity of at least one exposure timeframe is random or pseudo-random (*Paragraphs 0017-0019, 0022, 0034, 0046-0049 and 0056*).

69. The method of Claim 51 wherein appearance and continuity of at least one exposure timeframe is scheduled (*Paragraphs 0017-0019, 0022, 0034, 0046-0049 and 0056*).

70. The method of Claim 51 wherein said assignments include answering questions and at least one stimulus comprising flashing at least one picture not related to the content of the questions (*Paragraphs 0017-0019, 0022, 0034, 0046-0049 and 0056*).

71. A method for computerized indicating individuals with hidden intent, the method comprising:

(a) exposing an individual to at least two sets of stimuli within one or more exposure timeframe, while first set of stimuli is dedicated to cause a known in advance individual's response and the second set is dedicated to indicate a hidden intent

(Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Examinee is asked questions in a normal environment and then asked questions while being exposed to IMVR stimuli, psychometric data is collected the entire time. Questions in normal environment are equivalent to one set and questions in IMVR stimulus is the second set);

(b) registration of psycho-physiological characteristics giving rise to registered parameters (Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Psychometric data collection is equivalent to registration of psycho-physical characteristics);

(c) comparing the parameters or derivatives thereof registered during the exposure of the first set with the known in advance individual's response (Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Baseline values and signal collected during IMVR stimuli are compared to see if user is trying to deceive);

(d) comparing the parameters or derivatives thereof registered during the exposure of the second set with a test criterion (Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Baseline values and signal collected during IMVR stimuli are compared to see if user is trying to deceive);

(e) providing an indication of hidden intent in case of predefined discrepancy (Paragraphs 0017-0019, 0034, 0046-0049 and 0056. Baseline values and signal collected during IMVR stimuli are compared to see if user is trying to deceive).

72. The method of Claim 71 wherein said comparison with the known in advance individual's response is provided for the purpose of an individual's authentication (Abstract, Paragraphs 0017-0019, 0034, 0046-0049 and 0056).

73. The method of Claim 71 wherein said comparison with the known in advance individual's response is provided for the purpose of indicating countermeasures by the individual (*Paragraphs 0018, 0047-48*).

74. The method of Claim 71 wherein each of said exposure timeframes is contemporary with individual's fulfillment of at least one stated assignment (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

75. The method of Claim 71 wherein said first and second sets of stimuli are exposed in different exposure timeframes (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

76. The method of Claim 71 wherein said first and second sets of stimuli are exposed within the same exposure timeframes (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

77. The method of Claim 71 wherein said hidden intent is malicious (*Paragraph 0034*).

78. The method of Claim 71 wherein said psycho-physiological characteristics include a behavioral reaction (*Paragraph 003*).

79. The method of Claim 71 wherein at least one of said stimulus is a member of a group comprising stimuli of the types as open stimuli, concealed stimuli, stressing stimuli, relaxing stimuli, stimuli creating conscious reaction, stimuli creating sub-conscious reaction, targeted stimuli, general stimuli (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

80. The method of Claim 71 wherein provision of at least one of said stimuli is fully automated (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

81. The method of Claim 71 wherein at least one of said stimulus is a member of a group comprising stimuli provided via physical and virtual media (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

82. The method of Claim 71 comprising random or pseudo-random selection of a type of at least one of said stimuli (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

83. The method of Claim 71 comprising random or pseudo-random exposure of at least one said set of stimuli within the exposure timeframe (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

84. The method of Claim 71 comprising scheduled exposure of at least one said set of stimuli within the exposure timeframe (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

85. The method of Claim 71 wherein said test criterion includes a test pattern; the method further comprising adapting said test pattern to the individual according to registered parameters (*Paragraphs 0022*).

86. The method of Claim 71 wherein
said known in advance individual's response includes a test pattern (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*);
the method further comprising adapting said test pattern to the individual according to parameters registered in advance (*Paragraphs 0022*).

87. The method of Claim 71 wherein appearance and continuity of at least one exposure timeframe is random or pseudo-random (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

88. The method of Claim 71 wherein appearance and continuity of at least one exposure timeframe is scheduled (*Paragraphs 0017-0019, 0034, 0046-0049 and 0056*).

89. A system for computerized indicating individuals with hidden intent, the system comprising:

(a) a working place for fulfillment of at least one stated assignment (*Paragraphs 0034. Portable device thus it can be used in any location*);

(b) a stimuli exposure block configured to exposure at least one stimuli to said working place within at least one exposure timeframe while said timeframe is contemporary with individual's fulfillment of at least one stated assignment and said stimulus does not require an active direct reaction from the individual and is intended to cause a psycho- physiological reaction (*Paragraphs 0046-0049, 0056. IMVR system presents stimuli while questions are being presented. IMVR stimulus does not require an active direct reaction from the individual*);

(c) sensors and measuring tools block configured to register individual's psycho-physiological characteristics giving rise to registered parameters (*Paragraphs 0036-0041. Sensor placement unit, DSP and PC collect and analyze the physiological data*);

(d) a processor configured to compare the registered parameters or derivatives thereof with a test criterion and to facilitate indicating a hidden intent in case of predefined discrepancy (*Paragraph 0042-0044, 0056. PC processes data to detect deception based on a comparison with baseline data*).

Claim 90 is rejected on substantially the same basis as claim 51.

Claim 91 is rejected on substantially the same basis as claim 71.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharick Naqi whose telephone number is (571)272-3041. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. N./
Examiner, Art Unit 3736
August 16, 2008

/Max Hindenburg/
Supervisory Patent Examiner, Art Unit 3736

